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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

EMC04-04(04029)

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on October 1, 2007

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Application Number

10/812,512

Filed

March 30, 2004

First Named Inventor

John A. Campbell

Art Unit

2164

Examiner

S. Pannala

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 45,752

☐ attorney or agent acting under 37 CFR 1.34.
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/PPK/

Signature

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October 1, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): John A. Campbell
Serial No.: 10/812,512
For: METHODS AND APPARATUS FOR COLLECTING AND PROCESSING
FILE SYSTEM DATA
Filing Date: March 30, 2004
Examiner: Sathyanarayan R. Pannala
Art Unit: 2164
Conf. No.: 3214

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PRE-APPEAL BRIEF
REASON FOR REQUEST OF REVIEW OF FINAL REJECTION

Applicant requests review of the final Office Action mailed on May 29, 2007 because, in Applicants' view, the applied art is insufficient to reject Applicant's claims.

Rejection of Claim 1

Claim 1 stands rejected under §103(a) as being obvious over Zahavi et al., U.S. Patent No. 6,886,020 in view of Therrien et al., US Pat. Pub. 2004/0093361A1.

The Examiner asserts that the collection agent 30 in Zahavi receives the policy file 42 as does the technique in claim 1. Applicant respectfully disagrees. There is no indication whatsoever that the collection agent 30 in Zahavi receives the policy file 42.

Zahavi only discloses that the collection manager 38 (a central processing function) receives the policy file 42 and uses it to store collected data. As shown and discussed with respect to FIG. 3, the collection manager 38 in Zahavi uses command and control module 40 to send commands to collection agent 30 for retrieval of data.

Also, note that the collection manager 38 in Zahavi receives and processes raw data from the collection agent 30. For example, see column 7, lines 27-32, which recites that "The data manager component 44 of the collection manager performs computations (of derived metrics as described hereinafter), and builds flexibly configurable archives 46 of data received from the host resident collection agent(s) according to the user specified policy." Thus, Zahavi is a good prior art example illustrating how a central function collects data from agents and performs local computations at a centralized location to produce information for viewing by a user.

In contradistinction, the claimed invention recites that the data collection agent (not the central manager as in Zahavi) performs calculations on data to produce a summary report. There is no transformation of raw collected data at the agents in Zahavi to calculated results for producing a summary report.

Applicant respectfully submits that Therrien does not cure the deficiencies mentioned above with respect to Zahavi. In other words, Therrien also does not teach or suggest the claim limitations as discussed above.

Therrien shows an example of a protection policy in FIG. 4 and corresponding text. Therrien discloses use of a protection policy for protecting already stored data. The protection policy is not a policy for collection and forwarding of data to a manager as in the claimed invention. Thus, Therrien also does not teach or suggest that a data collection agent receives a data collection policy as in the claimed invention.

There is also no indication whatsoever that the protection policy in Therrien (or policy in Zahavi) specifies how to produce or is used to produce a summary report.

Therrien also does not disclose use of a data collection agent that produces a summary report, especially not one based on a received protection policy. Thus, Therrien also does not teach or suggest the claimed invention.

Use of the data collection policy at the data collection agent (as in the claimed invention and contrary to Zahavi and Therrien) enables the agent to collect data and, based on calculations at the agent, produce the summary record (e.g., a reduced set of data) as opposed to merely forwarding raw data to the storage manager application that would then have to process the collected data and produce a summary report. Because the agent collects data and produces the summary report, the agent according to the claimed invention can reduce how much traffic must be sent over a network from the agent to a collection manager that processes the data for presentation purposes. Additionally, at least part of the burden of processing the collected data is offloaded to the agent as opposed to having to be done by an entity to which the agent forwards the data.

Accordingly, Applicant requests allowance of claim 1 because it includes distinguishing patentable limitations over the cited prior art. For similar reasons, claims 16, and 31 are allowable as well. Note also that claim 31 includes limitations that the data collection agent is one of multiple agents operating in a storage area network that transmit collected information to a storage management application.

Dependent Claims 13-15

The Examiner continues to reject claims 13-15 and 28-30 under 35 U.S.C. §103(a) as being obvious over Zahavi in view of Therrien, and in view of Gusler et al., U.S. Patent No. 6,938,057.

Each of claims 13-15 recites “applying averaging functions to the storage information related to the sizes and ages of files and directories within the files and directories.” To reject the limitation in the claimed invention, the Examiner cites Gusler at column 8 line 8, which reads as follows:

With reference again to step 700, if log entries are present, a determination is made as to whether log removal is to occur (step 712). This log removal step may be employed to remove log entries or log files when these log entries or files are older than some selected date or over a certain size. If log removal is to occur, the log entries are removed according to whatever policy has been employed (step 714). This policy can be based on

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the age of the log entries or the size of the log (i.e., number or entries), or by other factors. Thereafter, the process proceeds to step 702 as described above. The process also proceeds to step 702 if log entry removal is not to occur in step 712. (Emphasis Added)

The Examiner asserts that the above passage in Gusler discloses the limitation of applying averaging functions as in the claimed invention. Applicant disagrees with this assertion. Removal of a log entry based on its age or size is not equivalent or suggestive of the above claim limitation. For example, Gusler indicates that removal (i.e., non-use) of a log entry can produce a set of smaller set of log entries. The log entries are removed in Gusler when they get too old.

The claimed invention is not directed toward mere removal of log reports to produce a summary report. Instead, the claimed invention recites applying averaging functions to a chosen set of storage information to produce summary reports. More specifically, the claimed invention recites non-removal and use (not removal and elimination as in Gusler) of storage information related to sizes and ages to produce (e.g., derive) a size summary record and age summary record. Gusler does not derive or produce anything from the removed log entries. Thus, Gusler teaches away from the claimed invention and the rejection is improper.

Note also that the claimed invention recites producing a size summary record and an age summary record based on application of the “averaging” functions. As its name indicates to one of ordinary skill in the art, “averaging” and application of averaging functions includes deriving a quantity that represents an arithmetic mean of sizes and ages. Neither Gusler nor any other cited reference teaches or suggests producing a size summary record or an age summary record via application of averaging functions. For this additional reason, Gusler does not suggest the claimed invention in addition to the reasons as discussed above.

Accordingly, Applicant respectfully requests allowance of claim 13-15 as well as claims 28-30 as well as claims 28-30.

The Examiner also continues to reject claims 32-34, and 36-37 based on Zahavi at FIG. 12, column 11, lines 11-21, which reads such as follows:

An example of the format of the configuration section of the header is presented below:

<CONFIGURATION: LOGICAL VOLUMES TABLE> 0x000, DEV000, R2:00-0xC0,
NP:00-0x00, NP:00-0x00, HS:22-0xD2, 0xFFFF, 0, 0x001, DEV001, R2:31-0xD0,
NP:00-0x00, NP:00-0x00, HS:22-0xD2, 0xFFFF, 0, 0x002,

Applicant is unable to make any logical sense how the above passage or any other passage in Zahavi teaches or suggests the claimed invention.

More specifically, claim 34 recites "based on receipt of the data collection policy from the storage management application, configuring the data collection agent as one of multiple software agents, each of which i) collects data from resources in the storage area network, ii) produces a summary report, and iii) forwards the summary report to the storage management application." There is no indication in Zahavi or Therrien that multiple agents receive a data collection policy and produce reports that are forwarded to a common storage management application.

Claim 32 recites "performing at least one calculation on the collected storage information at the data collection agent, the at least one calculation performed according to the data collection policy received by the data collection agent." As mentioned above, Zahavi discloses that "The data manager component 44 of the collection manager performs computations ... and builds flexibly configurable archives 46 of data received from the ... collection agent(s) according to the user specified policy." Claim 33 further recites that the summary record includes computational results. In a similar vein, claim 36 recites that the agent in the claimed invention applies arithmetic operations as specified by the received policy. None of the cited prior art discloses use of an agent that produces a summary report based on a received policy as in the claimed invention. Thus, these dependent claims should be allowable as well.

_____/PPK/_____

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Dated: October 1, 2007